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10/804,469 03/18/2004 Sandra E. Ring 2046 7242

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MARTIN & HENSON, P.C.
9250 W 5TH AVENUE
SUITE 200
LAKEWOOD, CO 80226

EXAMINER

ELLIS, KEVIN L

ART UNIT

PAPER NUMBER

2188

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
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3 MONTHS

03/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/804,469

Applicant(s)

RING ET AL.

Examiner

Kevin L. Ellis

Art Unit

2188

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-21, and 23-33 is/are rejected.
- 7) ☒ Claim(s) 5, 6 and 22 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>6/21/04</u> . | 6) <input type="checkbox"/> Other: ____. |

Detailed Action

1. Claims 1-33 are presented for examination.
2. Information disclosed and listed on PTO 1449 has not been considered. 37 CFR 1.98(b)(5)

states:

Each publication listed in an information disclosure statement must be identified by publisher, author (if any), title, relevant pages of the publication, date, and place of publication.

In addition, MPEP 609.04(a) states that the 37 CFR 1.98(b) requirements for publications are:

Each publication must be identified by publisher, author (if any), title, relevant pages of the publication, and date and place of publication. The date of publication supplied must include at least the month and year of publication, except that the year of publication (without the month) will be accepted if the applicant points out in the information disclosure statement that the year of publication is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the particular month of publication is not in issue. The place of publication refers to the name of the journal, magazine, or other publication in which the information being submitted was published.

The IDS filed 6/21/04 fails to comply with this requirement as it does not list **each** publication but instead of lumps them all together as "Various Website Materials pertaining to EnCase Products". As such the IDS as been placed in the filed but has not be considered.

Claim Rejections – 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 1-4, 7-18, 32, and 33 are rejected under 35 U.S.C. § 102(e) as being anticipated by Grand et al., U.S. Patent 7,181,560.

- A) As to claims 1, 16, 17, 18, 32, and 33, Grand et al. teaches a computerized method for collecting suspected data of interest from a computer that includes short-term memory and long-term memory (see Col 3 Lines 30-36; typical desktop or portable computer systems have both a short-term memory, e.g. main memory, and a long-term memory, e.g. hard drive), the method copying short-term memory data to an alternate data storage location in a manner which avoids writing the suspected data to the long-term memory (see Fig 2, Abstract, and Col 2 Lines 28-35).
- B) As to claims 2 and 3, the alternate data storage location is external to the computer and has an associated long-term memory (see Col 2 Lines 28-35).
- C) As to claim 4, the alternate data storage location is a removable, non-volatile memory media (see Col 3 Lines 3-15).
- D) As to claims 7-15, since the system of Grant et al. makes an image of main memory, the suspected data of interest would include those listed in the claims. As for the operating system being a Linux operating system, the invention of Grant et al. is not limited by the operating system running on the computer system and would still copy the information relating to a Linux based operating system listed in the claim.

Claim Rejections – 35 USC § 103

5. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 19-21 and 23-31 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Grand et al., U.S. Patent 7,181,560.

- A) As to claim 19, Grant et al. discloses the invention substantially as claimed.

However, Grant et al. does not disclose that the method is a computer-readable medium having executable instructions. It would have been obvious to one having ordinary skill in the art at the time of the invention that the expansion card of Grant et al. could use a processing device, such as a microcontroller, for performing the invention. This microcontroller would then use instructions stored on a computer-readable medium that is part of the expansion card for performing the steps of the invention. Accordingly, it would have been obvious that the invention of Grant et al. could be a computer-readable medium storing executable instructions for performing the invention.

- B) As to claim 20, the alternate data storage location is external to the computer and has an associated long-term memory (see Col 2 Lines 28-35).

- C) As to claim 21, the alternate data storage location is a removable, non-volatile memory media (see Col 3 Lines 3-15).

- D) As to claims 23-31, since the system of Grant et al. makes an image of main memory, the suspected data of interest would include those listed in the claims. As for the

operating system being a Linux operating system, the invention of Grant et al. is not limited by the operating system running on the computer system and would still copy the information relating to a Linux based operating system listed in the claim.

Allowable Claims

7. Claims 5, 6, and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin L. Ellis whose telephone number is 571-272-4205. The examiner can normally be reached on weekdays from 6:00AM-2:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung Sough can be reached on 571-272-6799. The fax phone numbers for the organization where this application or proceeding is assigned is 571-272-8300.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Kevin L. Ellis
Primary Examiner
March 13, 2007

Kevin L. Ellis